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August 5, 2022

VIA ECF

The Honorable Sarah Netburn
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *Faulkner v. Bin Laden*, Case No. 09-CV-07055 (GBD)(SN) in the United States District Court for the Southern District of New York

Dear Judge Netburn:

This is in regard to the recent motion for default judgment against Afghanistan filed by Plaintiff Lynn Faulkner in the above-captioned matter. ECF No. 229. Shortly after filing, the Clerk issued a notice that the default judgment filing was premature as a clerk's certificate of default still needed to be obtained. ECF Notice of July 26, 2022. The motion also was terminated from the docket. ECF 236. As explained below, a default had been obtained earlier in this case.

This history of this case is summarized in the Court's March 4, 2022 Report and Recommendation. ECF No. 218 at 2. As explained therein, this case was originally filed in the District Court for the District of Columbia. *Doe v. Bin-Laden et al.*, No. 01-2516 (D.D.C.) (RWR) (Exhibit 1, Docket Sheet). On January 23, 2003, the clerk entered a default against defendant Afghanistan in the D.D.C. ECF 16 (Exhibit 2, Entry of Default). That entry of default is not reflected in the docket for *Faulkner v. Bin Laden et al.*, No. 09-cv-0755, (GBD)(SN). As this Court also noted, subsequent motions on that docket mistakenly refer to this as a default judgment, *see, e.g., Doe v. Bin-Laden et al.*, No. 01-cv-2516, ECF No. 26, but the entry at ECF No. 16 reflects that the Clerk of the Court only granted a default under Federal Rule of Civil Procedure 55(a), not a default judgment. The Memorandum Decision and Order entered in this Court on May 24, 2022 also inadvertently refers to the default as a default judgment. ECF No. 224 at 2.

Accordingly, as a default previously had entered, Plaintiff's Motion for Default Judgment was not premature. Plaintiff respectfully requests that his default judgment motion and accompanying pleadings (ECF Nos. 229-232) be restored to the docket or that Plaintiff be allowed to re-file the motion.

Ltr. to Hon. Sarah Netburn
August 5, 2022
pg. 2

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ James F. Peterson
Counsel for Plaintiff

cc: Counsel of record by ECF